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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/601,595 | 06/24/2003 | Tse Min Chen | CHEN3556/EM | 1480 |
| 23364 | 7590 | 08/11/2005 | EXAMINER | |
| BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314 | | | ASTORINO, MICHAEL C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3736 | |

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|--------------------------------------|--|
| Office Action Summary | Application No. 10/601,595 | Applicant(s) CHEN, TSE MIN | |
| | Examiner Michael C. Astorino | Art Unit 3736 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4, 6-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The examiner acknowledges the response filed June 1, 2005, wherein claims 1-2, 4, and 6-7 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility.

The applicant states, "The device as claimed in claim 1 wherein the sensor module further comprises a analog-to-digital converter to enable the health monitor expansion module to receive the analog output signal from the sensor." This limitation is not credible since an analog-to-digital converter will output a digital not an analog signal.

Claim 6 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention. Additionally the specification does not disclose an analog-to-digital converter at the sensor to output an analog signal.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Linburg
US Patent Number 6,385,593 B2 (as incorporated by reference Duffin et al. US Patent Number
5,752,976.)

Claim 1. A health monitor expansion module for connecting to a mobile wireless communication apparatus to provide a wireless health monitor platform, the health monitor expansion module capable of receiving physiological signal provided by at least one sensor module, the health monitor expansion module comprising:

- a microprocessor (Linburg - 10, column 10, line 7);
- an input signal processing unit connected to the microprocessor (Linburg - via 10' and 10'') for receiving and processing the signal provided by the sensor module if the signal is a digital signal, (Linburg is inherently capable of receiving a digital transmission from a sensor 10' or 10'' via IMD 10 telemetry circuitry); Linburg states the IMD may have ECG sensing capabilities (column 10, lines 13-15 and column 14, lines 29-38). Linburg does not go into great detail regarding the ECG sensing however Lindberg does incorporate by reference Duffin et al. US Patent Number 5,752,976. Duffin et al. discloses the use of an ECG device, which requires an A/D converter, and thus necessarily teaches for converting the signal provided by the sensor module into a digital signal if the signal is an analog signal (see figure 6, element numbers 328 and 360, column 7, lines 40-67 and column 8, lines 1-13);

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a data storage unit connected to the microprocessor for storing data (Linburg - inherent via transmission of data); and

an interface processing unit for processing transmission signals between the mobile apparatus (Linburg - inherent via 20);

wherein the health monitor expansion module is capable of receiving the physiological signal from the sensor module and sends the physiological signal via the mobile apparatus (Linburg - column 10, lines 1-25).

wherein the sensor module comprising:

a microprocessor (Linburg - 10' or 10'');

an input signal processing unit connected to the microprocessor for receiving and processing the signal provided by the sensor (Linburg - column 10, lines 8-15);

a data storage unit connected to the microprocessor for storing data (Linburg - inherent via transmission of data); and

an antenna and a wireless data transmitting unit for sending the physiological signal to the health monitor expansion module. (Linburg - 42, 44, 46; column 10, lines 1-24)

Claim 2. The health monitor expansion module as claimed in claim 1 further comprising an antenna and a wireless data transmitting unit to enable the health monitor expansion module to receive the wireless output signal from the sensor module. (Linburg - figure 1)

Claim 4. The health monitor expansion module as claimed in claim 1 further comprising a signal amplifier for amplifying the signal from the sensor module. (Duffin sense amplifier 360).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Linburg US Patent Number 6,385,593 B2 (as incorporated by reference Duffin et al. US Patent Number 5,752,976) as applied to claim 1 above, and further in view of Haubrich et al. US Patent Number 6,482,154 B1.

In regards to claim 6, Linburg fails to specifically disclose the sensor module having digital-to-analog converter, Linburg states that devices 10, 10', 10'' are synonymous and each could uplink to one another and are described generically in columns 11 and 12. However, Haubrich et al. discloses a synonymous device from the same assignee, and also discloses the use of a digital-to-analog converter (columns 5-6, lines 54-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute/incorporate the device of Linburg in view of converter of Haubrich et al., since Linburg states requires the use of same uplink technique as a standard for the medical device(s)/system (Haubrich et al., columns 5-6, lines 54-9; and Linburg columns 12, lines 1-15).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Linburg US Patent Number 6,385,593 B2 (as incorporated by reference Duffin et al. US Patent Number 5,752,976) as applied to claim 1 above, and further in view of Thompson US Patent Number 6,571,125 B1.

In regards to claim 7, Linburg fails to specifically disclose wherein the sensor module further comprises a signal amplifier for amplifying the signal from the sensor, Linburg does state that devices 10', 10'' may include a drug delivery device. However, Thompson teaches a drug delivery device synonymous with the drug delivery device in Linburg. Thompson device is from the same assignee and is considered a substitutable drug delivery device for Linburg. Thompson discloses the drug delivery device in greater depth. Within that disclosure, Thompson specifically teaches "the sensor module further comprises a signal amplifier for amplifying the signal from the sensor." (Thompson - figure 5, and an amplifier 212 aides in the detection of physiological signals by sensor inputs 210). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the drug delivery device of Thompson in view of the drug delivery device of Linburg, since Linburg states the use of a implanted drug delivery device and Thompson illustrates the means for which to fabricate such an embodiment. Additionally, Linburg states in column 2, lines 25-28, "Further, it may be preferred to have an operable communication between the various implants to provide a coordinated clinical therapy to the patient.

Response to Arguments

Applicant's arguments filed June 1, 2005 have been fully considered but they are not persuasive. The Applicant states that Linburg fails to state the added limitations of the claim.

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The examiner disagrees with the applicant's assertion. Lindberg does not specifically recite the added limitations, however by incorporating by reference Duffin, Linburg does reject the added language. As for Linburg transmitting information regarding inventory and billing, this is only one embodiment of the invention. Linburg teaches more than inventory and billing in figure 2, column 11, lines 31-67 and column 12, lines 1-25, and the applicant can refer to the teachings in Duffin to further elaborate on the functions of monitoring, diagnosing, and treating the patient.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael C Astorino** whose telephone number is **571-272-4723**.

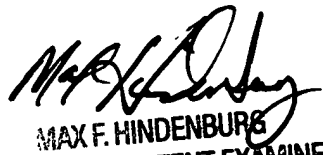
The examiner can normally be reached on Monday-Friday, 8:30AM to 3:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Astorino
August 8, 2005


MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700